

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:23-cv-00112-MR-WCM**

WILLIAM ZIEGLER and)
VICKI ZIEGLER,)
)
 Plaintiffs,)
v.)
)
POLARIS INDUSTRIES INC.,)
)
 Defendant.)

ORDER

This matter is before the Court on “Defendant Polaris Industries Inc.’s Unopposed Motion for Leave to File Under Seal Certain Documents in Support of its Motions to Exclude Expert Testimony of Dr. Jerry Bauer, Dr. David Bosch, and Robert E. Burnham” (the “Motion to Seal,” Doc. 107).

I. Background

The Motion to Seal was filed on October 11, 2023.

In an Order entered on October 24, 2023, the undersigned noted that it was not apparent that the Subject Documents should be sealed in their entirety and instructed Defendant to file redacted versions of those materials. Doc. 130.

II. Discussion

A. The Memoranda in Support of Defendants’ Motions to Exclude and Associated Exhibits

On October 31, 2023, Defendant filed publicly available, unredacted

versions of its Memorandum of Law in Support of its Motion to Exclude Expert Testimony of Dr. David Bosch, Doc. 132, and its Memorandum of Law in Support of its Motion to Exclude Expert Testimony of Robert E. Burnham and Exhibits 1, 3, and 4. Doc. 133.¹

Accordingly, these documents will be unsealed.

B. Dr. Bauer's Expert Report

Also, on October 31, 2023, Defendant filed a redacted version of Dr. Jerry Bauer's expert report. See Doc. 131. That filing is 17 pages long and consists of a cover page, four pages of the letter report, 11 pages of Dr. Bauer's CV, and one page pertaining to his expert fees. Redactions appear only on the letter report itself.

Other documents in this matter have been sealed on the basis that they referenced medical records. The undersigned, though, is not persuaded that Dr. Bauer's report should also be sealed in the current circumstances.

First, Defendant has filed a motion to exclude portions of Dr. Bauer's testimony. Doc. 109. Dr. Bauer's letter report is relevant to that motion. See Murrill v. Merritt, No. DKC-2255, 2022 WL 4080308, at *18 (D. Md. Sept. 6, 2022) ("Mr. Murrill's request to seal medical expert reports that rely on his

¹ The Clerk's office has since confirmed that, upon Defendant's further review of these documents, Defendant determined that they did not need to be filed under seal or redacted.

underlying medical records will be denied. Unlike the underlying records, the reports contain little if any extraneous information about Mr. Murrill's health and care.”).

Further, while the redacted version of Dr. Bauer's report redacts some medical information, it leaves other references to Mr. Ziegler's medical treatment unredacted.

IT IS THEREFORE ORDERED that the Motion to Seal (Doc. 107) is **DENIED**, and the Clerk is **RESPECTFULLY DIRECTED** to **UNSEAL** the Subject Documents (Docs. 111, 123, 126, 126-1, 126-3, and 126-4).

Signed: November 7, 2023

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

